

**Adjudication Survey Results**  
Upper Clark Fork River Basin Steering Committee  
April 2006

**Survey Data**

- 181 surveys were mailed, 112 to Flint Creek and 69 to Blackfoot sub-basins.
- 11 letters returned because of bad addresses, 10 from Flint Creek and 1 from the Blackfoot.
- 31 (18%) surveys completed and returned.

**Survey Question 1**

- Do you hold a pre-1973 water right from the State of Montana?
  - The majority of respondents answered “yes.”

**Survey Question 2**

- What water uses are provided by your water rights?
  - The water uses in order of most use were: irrigation, stockwater, and domestic.
  - No responses to mining and other uses.

**Survey Question 3**

- Have you or your representative participated in the statewide adjudication of water rights?
  - Half responded “yes,”
  - Half said either “no,” “don’t know” or left this question blank.

**Survey Question 4**

- If the previous answer was yes, how have you participated?
  - The majority either filed a claim or filed an objection to a claim.
  - Others hired an attorney, and a couple testified in a hearing.

**Survey Question 5**

- What is the estimated cost of your participation in the adjudication process in time and dollars?
  - A few people said \$500 while other expenses were listed at \$60, \$100, \$600, \$800, \$1500, \$2000, \$3800, 5,000, \$100,000.
  - Only a few responded to the time involved. Some of the hours listed were 25hrs, 40hrs, 80hrs.

**Survey Question 6**

- Is your pre-1973 water right included in a water right decree issued by the Montana Water Court in the current state-wide adjudication process?
  - The majority responded “yes” that their pre-1973 water right was issued in a water right decree by the Montana Water Court.

**Survey Question 7**

- On a scale of 1 to 10 with 1 meaning very dissatisfied and 10 meaning extremely satisfied, how would you rate the adjudication process?
  - Left blank: 23%. Some said the adjudication process was non applicable.
  - 1: 17%
  - 2: 17%
  - 3: 3 %
  - 4: 10%
  - 5: 23%
  - 7: 7%
  - zero responses from 8-10.

**Survey Question 8**

- Do you expect that completion of the adjudication will make your use of water easier, harder, or have no effect?
  - Majority replied that it will make water use harder.

**Survey Question 9**

- How will completion of the adjudication affect your use of water?
  - One respondent said easier because adjudication would “protect current water rights and document actual use prior to 1973.”
  - Most said harder for the following reasons:
    - Combining several decrees into one is not practical and not historical in use.
    - More complicated, more expensive but more secure.
    - More paperwork, wasted time, no help.
    - Installation of measuring devices.
    - Lose the use of some water.
    - More bureaucratic, less collaboration with local users.

**Survey Question 10**

- Is your water right regularly administered by a water commissioner?
  - The majority responded “no.”

**Survey Question 11**

- Would you support requiring all water rights holders in the decree that the commissioner is enforcing to help pay for the commissioner?
  - The majority responded “yes.”

**Survey Question 12**

- Do you expect that enforcing your water right(s) will be easier or harder after the adjudication process is completed?
  - The majority said it would be harder after the adjudication process.

**Survey Question 13**

- Should the DNRC be more active in enforcing water rights?

- Most said that the DNRC should be more active in enforcing water rights.

#### **Survey Question 14**

- About how much time and money have you spent defending your water rights?
  - For the majority, there was zero cost in defending water rights.
  - Some mentioned the following costs and hours:
    - \$500 (2)
    - ~\$1000(5)
    - \$2,000
    - \$12,000(2)
    - \$25,000
    - \$28,000
    - Over 100,000
  - Hrs 10
  - Hrs over 100

#### **Survey Question 15**

- Do you feel that your water right is threatened by interests in Montana?
  - Majority feels their water right is threatened by interests in Montana and in downstream states.

#### **Survey Question 16**

- Other comments or concerns about the adjudication process or how water rights are currently administered?
  - Local process is not contentious now. Will it be after the adjudication?
  - Development pressure is not legally available water.
  - Adjudication process is a tax on water for which I have a legal right, and this confirms that the DNRC is not doing its job. Why would adjudication be necessary had DNRC already kept its files current and accurate?
  - Concerned about losing my local control.
  - Water rights now are administered appropriately. A new adjudication will complete upheaval of system. Too complicated and too large of an area to administer.
  - Get it done once and for all.
  - From my personal experience] water rights ran through the courts twice. [I] see no need to go through courts again.
  - New decrees will be a huge unknown to most of us. There will be more and more pressure on current water users due to changes in population and land use.”
  - Hiring more people and spending more money on this process in all likelihood will create a bigger mess than we are already in. If recent history is any indication of what we right holders are facing, God help us.
  - Original decree dates should be considered. [For example,] Flint Creek was decreed in 1906. Lower Flint Creek in 1909. Lower valley users with prior rights could have appeared in court in 1906 but chose not to. Therefore, their priority dates should not prevail over later dates decreed in 1906.

- The water rights are better administered by the District Courts than by any bureaucratic arm of the government such as the DNRC.
- It's working now why change it? It appears the 'new process' is going to be an attorney's 'heyday' and give several more jobs. Someone will have to pay for them.
- I question what has been done with our adjudication tax. We were told that action would take place in fall 2005. To date nothing has happened. Is our money being misused?
- My concern is that if the irrigation is changed any with a new decree the entire system will fail, as it has worked fairly well for 100 years plus.
- DNRC doesn't seem to do much as it is. So it is hard to assess the benefit of an expanded role.
- [The] system appears to be manipulated by certain moneyed special interest groups [which is] a conflict of interest [between] government and special interest groups.
- It's a joke.
- DNRC will not enforce without an attorney raising hell. [It] should not be this way.